

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

JOHN RANDALL FUTCH,	)	
	)	
Petitioner,	)	
vs.	)	NO. CIV-14-1043-HE
	)	
PAUL A. KASTNER, Warden,	)	
	)	
Respondent.	)	

**ORDER**


Petitioner John Randall Futch, a federal prisoner appearing *pro se*, filed this action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Suzanne Mitchell, who has recommended that the petition be dismissed for failure to exhaust administrative remedies [Doc. #19]. Judge Mitchell recommended that the petition be dismissed, rather than stayed, because petitioner did not show good cause for his failure to exhaust and because petitioner was no longer housed in Oklahoma.

Petitioner has objected to the Report and Recommendation [Doc. #22], arguing that his transfer does not affect the court's jurisdiction. That may or may not be true, but it misses the point. The basis for the recommendation of dismissal was that petitioner had failed to exhaust his administrative remedies. His objection does not challenge that conclusion. As to the further issue of whether, in light of that failure, the result should be dismissal or a stay, petitioner's objection does not afford a persuasive basis for rejecting the Magistrate Judge's recommendation.

The court **ADOPTS** the Report and Recommendation, a copy of which is attached to this order. The petition is **DISMISSED** without prejudice.

**IT IS SO ORDERED.**

Dated this 29th day of June, 2015.



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JOE HEATON  
UNITED STATES DISTRICT JUDGE